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COMMISSION ON HUMAN RIGHTS

Forty-eighth session

SUMMARY RECORD OF THE 28th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 14 February 1992, at 3 p.m.

Chairman: Mr. SOLT (Hungary)

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The meeting was called to order at 3.15 p.m.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-THIRD SESSION (agenda item 17) (continued) (E/CN.4/1992/2-E/CN.4/Sub.2/1991/65, E/CN.4/1992/45, E/CN.4/1992/46, E/CN.4/1992/47, E/CN.4/Sub.2/1991/SR.14, E/CN.4/Sub.2/1991/5, A/46/543)

1. Mr. CAMPBELL (United Kingdom) said he wished to express the view of the United Kingdom delegation on the report of the Chairman of the Sub-Commission on its methods of work, the work of the Sub-Commission at its previous session and the election of members of the Sub-Commission. Regarding the first point, his delegation welcomed the debates which had taken place in both the Commission and the Sub-Commission on the relationship between the two bodies and on ways of improving the Sub-Commission's work. It also welcomed the tradition which had now been established of inviting the Chairman of each body to participate in the proceedings of the other. In its view, such permanent dialogue had already borne fruit; the previous year, in its resolution 1991/56, the Comission had put forward to the Sub-Commission a series of guidelines on its work, regarding which Mr. Joinet, Chairman of the Sub-Commission, at its forty-third session, had just reported with great concision and lucidity. His delegation also took the opportunity to congratulate Mr. Joinet on the energetic and effective way in which he had discharged his duties, whether presiding over the deliberations of the Sub-Commission or organizing preparatory consultations with his fellow officers, the Secretariat, delegations and non-governmental organizations.

2. Mr. Joinet, Chairman of the Sub-Commission, had outlined some of the measures recently taken to enhance the independence of the Sub-Commission experts: the appointment of alternates by election; the advisory opinion given by the International Court of Justice in the Mazilu case on the privileges and immunities of United Nations personnel; and, most recently, the use of a secret ballot on a regular basis. Regarding the latter point, his delegation believed that the experience of the Sub-Commission its prvious session had at its previous session had demonstrated that any potential fears which might have been aroused by the latter measure were completely unfounded. Mr. Joinet had also reported that the Sub-Commission had made better use of the time available.

3. The decision by the Under-Secretary-General to group together the introductions to the different agenda items in a general statement at the start of the session had been helpful, and the procedure should be repeated. Moreover, all participants in the session had exercised better self-discipline in keeping to their respective time-limits and in reducing the overall number of statements, a situation that could be credited to the Chairman, who had compiled statistics for the 1990 session as a reminder on the subject to certain participants.

4. Unfortunately, however, the Chairman of the Sub-Commission had been unable to report progress in all areas. Despite the recommendations of the Commission, the members of the Sub-Commission had been unable to reach an understanding regarding the many proposals on studies to be undertaken and the rationalization of the agenda. The arguments in favour of preparing a proper

work plan for the Sub-Commission were none the less well known; all study proposals would be carefully assessed, new studies would not be started until existing ones were completed, the Rapporteurs would conclude their studies within an agreed time-frame, and one or two Sub-Commission experts would be designated to follow the progress of a particular report and offer constructive criticism to the Rapporteurs, both before and during the session. In that connection, his delegation supported the Chairman's recommendation that, during the interval between the respective sessions of the Commission and Sub-Commission, a small representative group of Sub-Commission members should prepare specific proposals for consideration by the Sub-Commission at the start of its forty-fourth session.

5. Regarding the substantive work of the Sub-Commission, his delegation would state its opinion on specific reports and studies under the appropriate item or during discussion of draft resolutions. It would, however, mention one or two studies which, in its view, illustrated the value of the Sub-Commission's work to its parent body and also to the public in general. It particularly commended the final report of Mr. Despouy on human rights and disability (E/CN.4/Sub.2/1991/31), which was the result of seven years of consultation and preparation and which constituted a comprehensive report on a subject that had not always received the attention it deserved. His delegation supported the draft recommendation to the Economic and Social Council that the report should be widely disseminated (E/CN.4/1992/2, chap. I, draft resolution IV), and hoped that Governments, non-governmental organizations and expert bodies would derive inspiration from the Rapporteur's recommendations. The study conducted by Mr. Varela Quiros on the problems of HIV-infected people and AIDS sufferers had also engaged the interest of the United Kingdom delegation, which looked forward to completion of the final report. Finally, it drew attention to the report on states of emergency, again prepared by Mr. Despouy.

6. Finally, the Commission would shortly be electing or re-electing half the membership of the Sub-Commission, thus providing an opportunity to reflect on the qualities to be desired in Sub-Commission experts. First, it was essential that a candidate should have the background and experience in the field of human rights which would allow active and constructive participation in the Sub-Commission's work. However, individual expertise in particular specialities was insufficient; the ability to comment on and contribute to all aspects of the Commission's work was also required. In addition, it was important that each expert should be totally independent. In other words, he should not act on Government directives and should not be held accountable to any Government for anything said or done in his capacity as a Sub-Commission expert. In that regard, there were three requirements to be observed in order to secure the independence of the Sub-Commission and its members. First, candidates should never be put forward if there was a risk of conflict or tension between their duties as members of the Sub-Commission and their ties with their own Government. Secondly, the members of the Commission should only vote for candidates of whose independence, in the above-defined sense, they were certain. Thirdly, persons elected as members of the Sub-Commission should, at all times, scrupulously ensure that they discharged their duties in their personal capacity and never as the agents or defenders of their own Governments or with the aim of promoting the interests of the latter.

7. In conclusion, his delegation touched on the question of the outgoing members of the Sub-Commission. The rule to be observed in such a situation was to ask each outgoing expert to hand over any unfinished studies, which should then be entrusted to another expert for completion. Only in exceptional cases should an outgoing expert continue to report to the Sub-Commission after leaving office, and then only for the minimum time needed to complete a study or advance it to a sufficient degree.

8. Ms. FARHI (International Council of Jewish Women), also speaking on behalf of other non-governmental organizations - All-India Women's Conference, Associated Country Women of the World, Baha'i International Community, International Alliance of Women, International Council of Women, International Federation of University Women, International Federation of Women Lawyers, International Fellowship of Reconciliation, International League for the Rights and Liberation of Peoples, International Movement for Fraternal Union among Races and Peoples, Soroptimist International Association, World Federation of Methodist Women and World Union of Catholic Women's Organizations - made a statement on the question of reservations to the Convention on the Elimination of All Forms of Discrimination of Women. All the aforesaid organizations, deeply concerned about the many reservations to certain articles of the Convention concerning equality and discrimination, legal equality, employment, freedom of movement and domicile and status in marriage - matters which lay at the heart of discrimination - requested the Member States which had ratified the Convention to consider withdrawing those reservations, and further requested those Member States which had not yet ratified the Convention to do so without reservations. They regretted that the Sub-Commission had decided to defer, until its forty-fourth session, consideration of a proposal by the Working Group on Contemporary Forms of Slavery to seek an advisory opinion from the International Court of Justice on the matter of reservations to the Convention (E/CN.4/Sub.2/1991/L.49), and requested the Sub-Commission to give the matter serious consideration at its forty-fourth session.

9. Mr. CONLY (World Federation for Mental Health) made a statement on human rights and disability (see draft resolution IV, chap. I, E/CN.4/1992/2), a subject covered in the report of Mr. Despouy, Special Rapporteur (E/CN.4/Sub.2/1991/31), which contained recommendations aimed at engendering a better understanding of the barriers faced by people with disabilities. Prejudice, ignorance, arrogance and indifference had marginalized the disabled and obstructed them from pursuits common for their age and sex in their societies. The lack of access to education, employment and cultural and other activities was an abrogation of their basic rights, as was the incarceration of such persons in special institutions.

10. The World Federation for Mental Health first drew attention to the situation of persons with cognitive disabilities who, placed in special schools and then in sheltered workshops where they worked for less than the minimum wage, were open victims of exploitation who, in general, had no legal recourse against their forced incarceration or forced labour. Such persons were known to have the same basic interests as others; they wished to have jobs which would pay them enough to live and allow use of their talents, and they wished to be in control of their lives and to have recreational activities of their own choosing.

11. The second category to which he drew attention was that of persons with psychiatric disabilities, who, once labelled as such, were liable to be institutionalized against their wishes and to have no legal redress. Even where that was not the case, they were treated in such a way that they would never be able to develop their ability to cope. According to a study carried out in the United States, it was the psychiatrically disabled who had the lowest employment rate of all, yet there was clear evidence that employment and housing were the most effective means of socially rehabilitating such individuals.

12. There was one point into which the Special Rapporteur could have delved more deeply, namely personal assistance services to the disabled, which were essential if they were to live and work within their communities. The deaf needed interpreters, the blind needed readers, the physically disabled needed assistance with housework and personal care, the cognitively disabled needed assistance at work and so forth, failing which they were condemned to isolation or institutionalization.

13. The World Federation for Mental Health strongly urged the Commission to adopt the recommendations contained in the report of the Special Rapporteur (E/CN.4/Sub.2/1991/31), and particularly stressed the need to establish an appeals process for the disabled. It noted that 500 million people could benefit if the rights of the disabled were recognized, and that everyone might one day find themselves in the same situation. It therefore strongly urged the Commission to adopt draft resolution IV recommended by the Sub-Commission.

14. Ms. BANDETTINI DI POGGIO (International League for the Rights and Liberation of Peoples) spoke on the subject of draft decisions 4 and 13 of the Sub-Commission (E/CN.4/1992/2) concerning human rights and the environment and the International Year for the World's Indigenous People, respectively. The environment and its protection were indissociable from the rights of indigenous people, particularly their right to a healthy environment, arising from a proper and lasting development where the aims were consistent with the preservation of the natural and cultural wealth and resources of indigenous societies, which had the right to maintain control of such resources and to determine their own course of development. It was not a question of creating new rights for such populations, but of establishing their legitimate rights; the assaults on the environment had serious repercussions in that connection in view of the marked interaction between the deterioration of the environment, underdevelopment and the exacerbation of poverty. Moreover, such interdependence had been illustrated by a Sub-Commission expert who had spoken of a right to "prevention" against ecological risks, which were even greater for the most vulnerable populations to which the 300 million indigenous people of the world belonged. Unfortunately, huge deforestation projects or unimpeded exploitation always endangered the life of individuals and the pillage was by no means over.

15. Such was the case of the Penans in Sarawak, perhaps the last remaining nomadic people of Borneo, who lived by hunting and gathering in the forest which they exploited solely to satisfy their basic needs. The primary tropical forests, which provided their habitat, were threatened with destruction by excessive felling for export purposes. Malaysia was currently the leading exporter of tropical wood. Between 1971 and 1989, exports of

tropical wood from primary forests had tripled, increasing from 4.2 million to 13 million cubic metres. According to the International Timber Trade Organization, all primary forests would be exhausted within 10 years if felling continued at the same pace. Indigenous peoples, who had no recognized right to their land under written law, were opposed to such ruthless exploitation which, despite strict sanctions under internal security legislation, was ruining the ecosystem. Did not the protection of forests, the so-called lung of the world, derive from the right to conservation and were not the Penan people entitled to demand respect of that right in order to ensure their own survival and that of future generations?

16. In another area of the world, celebrations were being prepared with the approach of the year proclaimed by the General Assembly of the United Nations as the International Year for the World's Indigenous People, the five hundredth anniversary of Christopher Columbus' departure for the "New World". Since 1492, however, entire nations and peoples had been decimated, victims of the advance of Western civilizations and the greed of European conquerors. It would be criminal if, over and above the virtual annihilation of such peoples in the past, the injustice done to their descendants was further increased today under the pretext of ostentatious celebrations. The Dominican Republic, for example, had planned to provide gigantic and costly shows and tourist facilities, and to clean up the shanty areas where poverty was all too visible. In accordance with an evacuation order from President Balaguer, between 100,000 and 300,000 people had been forced to leave their homes to live in makeshift accommodation. Worse still, the construction of a huge lighthouse in the shape of a cross dedicated to Christopher Columbus had already cost US$ 40 million, whereas the education budget, for example, amounted to less than 1 per cent of the gross national product. One could not help but conclude that a major portion of international aid was being used to promote a facade and thus agree with the most disadvantaged, who protested that the people were hungry and that cement could not be eaten.

17. Ms. WILSON (Women's International League for Peace and Freedom) noted that the population shifts prompted by the recent political and economic changes in the world had included a significant number of people with disabilities, whose situation required the adoption and application of special measures. The municipality of Los Angeles, a true microcosmic city where over 92 different languages were spoken, had become involved in that sense despite the obstacles presented by the diversity in language and culture. The local administration had made considerable efforts, having established the Mayor's Office for the Disabled in 1975, which represented the first service of its type to be established at the seat of government of a large metropolitan area. Of the 600,000 disabled persons living in Los Angeles, 32,000 had accordingly benefited through the Office from training services, job placement and assistance. The Office provided a model of inspiration for other large cities experiencing the same problems, and already the Governments of various countries, notably the People's Republic of China, Japan, the United Kingdom, Ireland, Austria and Mexico, had sought assistance from the Office.

18. It was the responsibility of all States to guarantee the inalienable right of the disabled to participate in the mainstream of society under the same conditions as the other members of their community. In the

United States, prior to the passage of two laws on the disabled, namely the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, the disabled had been "invisible", if not "non entities" in society. They had needed years of struggle to make society realize that, given the necessary means, they could live independently and contribute to the life of the community and society in general. Outdated ideas and myths, which adversely affected the right of the disabled to live in society on an equal footing with others along with the inherent human right to dignity, should be eliminated. The Women's International League for Peace and Freedom applauded the United Nations for its activities related to the disabled, and recommended that the Commission should adopt the Sub-Commission's resolution concerning the report on human rights and disability and apply the recommendations which it contained.

19. Ms. NOLAND (International Association of Educators for World Peace) welcomed the growing interest being shown by the United Nations in the problems facing the disabled, as demonstrated by the Sub-Commission's appointment of a special rapporteur to prepare a study on human rights and disability and draw up recommendations on the measures to be taken to protect the rights of the disabled and allow their full participation in the life of society. As underlined by the Special Rapporteur in his report (E/CN.4/Sub.2/1991/31), information and education were two indispensable conditions for the elimination of prejudice towards the disabled. Information, together with appropriate legislation, would permit a better overall understanding of the situation and needs of the disabled. It would also inform the latter of their rights, and of the means, services and technology which could help them exercise such rights. The major role to be played in that respect by all the various media, in particular the specialized information bodies, could never be over-emphasized. A deaf person herself, she was editor-in-chief of National Focus, a newspaper for the disabled. Like many others, she had become deaf in adulthood and therefore had the advantage of being able to speak. Despite her disability, she was able to practise her profession and live a fully independent life by using sign language and various communication techniques and devices.

20. The International Association of Educators for World Peace strongly urged the Commission to adopt the resolution on human rights and disability submitted by the Sub-Commission (E/CN.4/1992/2). Its enforcement was of crucial importance for the protection of human rights and the guarantee of a dignified independent life for disabled persons worldwide.

21. Mrs. BOWMAN (World Association for World Federation) explained that she and her husband were involved in a community aid project to help homeless people and families who lived in their home city in California. The homeless people who benefited from such material aid included those suffering from various illnesses and disabilities which rendered them unable to work and turned them into marginals, who depended on the charity of others and who were maltreated by the police and poorly regarded by their fellow citizens. Consequently, they were unable to exercise the recognized rights and freedoms of every human being. The mandate given to Mr. Leandro Despouy, the Special Rapporteur whose task was to study the relationship between human rights and disability, had provided a means of giving voice to all those so

long deprived of their basic human rights. The World Association for World Federation therefore urged the Commission to forward Mr. Despouy's report to the Economic and Social Council, recommending adoption of the necessary measures to ensure the urgent implementation of the recommendations which it contained. Her husband would now speak on another important aspect of Mr. Despouy's report.

22. Mr. BOWMAN (World Association for World Federation) stressed the need to promote sport for the disabled, since sporting activities made a great contribution to personal equilibrium and well-being. He himself had helped to promote the first wheelchair body-building competition in the United States. On that occasion, he had been made aware of all the physical and material obstacles which faced disabled sporting contestants, such as difficult access to buildings and to other facilities in general and the impossibility of finding a specially-equipped car to rent or of training in a gym where the insurance policy covered disabled people. Clearly, then, it was not physical disability itself which prevented a disabled person from taking part in sporting events, but society, which gave no thought to responding to the particular needs of the disabled. Mr. Despouy's report thus represented an important step in building awareness of such problems, and it was to be hoped that it would be widely discussed.

23. Ms. GENEST (Pax Christi, International Catholic Peace Movement) recalled that, at its forty-third session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had discussed the issue of population transfer from the human rights aspect and had adopted resolution 1991/28, which recognized that population transfer violated the rights and fundamental freedoms of the populations concerned. It was a problem which had been too long ignored; indeed, its magnitude and seriousness had been demonstrated during the Tallinn Conference on population transfer organized by the Unrepresented Nations and Peoples Organization in January 1992. Numerous victims of such population transfers had discussed various aspects of the problem with government representatives and experts, including Ms. Claire Palley, a member of the Sub-Commission.

24. Pax Christi believed that the question should be further examined and that the Sub-Commission was the ideal body to undertake the task. Pax Christi therefore welcomed the Sub-Commission's adoption of resolution 1991/28, and hoped that the Commission would officially encourage it to undertake a study of the problem by appointing a special rapporteur or forming a working group to that end.

25. Regarding the question of human rights and disability, Pax Christi was pleased that the United Nations recognized, through the study conducted by Mr. Despouy, the serious and diverse barriers which prevented disabled persons from leading a normal life and the need to eliminate the discrimination and prejudices to which they often fell victim. Such problems could only be cured if States adopted and strictly enforced strong laws. Education and information were also necessary to create an awareness among the public at large that the disabled had much to offer society. She also stressed the need to develop the information available to the public and to the disabled

themselves on the sexuality of the disabled, particularly paraplegics. The disabled were, above all, men and women like everyone else and the fact that they used a wheelchair was merely secondary.

26. Disabled persons should not be treated as second-class citizens. They were not an object of pity, but human beings who should be treated with due respect. Pax Christi therefore impelled the Commission to take other urgent measures of benefit to the disabled on the basis of the work carried out by the Sub-Commission.

27. Ms. FORREST (International Fellowship of Reconciliation) stated that, as a pastor, she would speak of disability in relation to religion. Many of the prejudices towards the disabled people of the world were theologically based. In some cultures, disability resulting from an accident could be seen either as a punishment or as a privilege, whereas on other occasions it appeared to be a punishment inflicted on a person who had either the wrong faith or insufficient faith. Such attitudes could add up to concrete violations of rights, and could even constitute a barrier to the full participation of the disabled in the religious life of their community. As certain religions regarded disability as an imperfection, some people believed they were barred from following their religious vocation. Moreover, the needs of the disabled were not taken into consideration in places of worship. Nowhere had measures been taken, for example, to facilitate access for people in wheelchairs or to provide sign-language interpretation for the deaf.

28. As stated by Mr. Despouy in paragraph 5 of his report (E/CN.4/Sub.2/1991/31), the treatment given to disabled persons defined the innermost characteristics of a society and highlighted the cultural values sustaining it. As religion had played an important part in shaping cultural values, the International Fellowship of Reconciliation called upon all religious groups to examine their attitudes towards people with disabilities. It urged the Commission on Human Rights to recommend that the Economic and Social Council should adopt the measures required to ensure the urgent implementation of the recommendations made by Mr. Despouy in his report.

29. Ms. SPALDING (Human Rights Advocates) joined the representatives of the non-governmental organizations in endorsing the conclusions and recommendations contained in the report of Mr. Leandro Despouy, regarding which Human Rights Advocates would be submitting a written document to the Commission to thank it for the attention it had devoted to the issue of human rights and disability.

30. Mr. MOSES (Grand Council of the Crees) stated it was high time that the Commission examined seriously the question of the rights of indigenous peoples, for the situation of millions of human beings worldwide could not be ignored any longer. The Grand Council of the Crees welcomed the fact that 1993 had been declared the International Year for the World's Indigenous People and urged the Commission to define, on that occasion, long-term goals aimed at achieving human rights for all indigenous peoples. In that connection, the Grand Council of the Crees commended the valuable work of the Working Group on Indigenous Populations which had resulted in the formulation of a draft Universal Declaration on the Rights of Indigenous Peoples. He congratulated Mrs. Daes on her excellent report (E/CN.4/Sub.2/1991/40/Rev.1)

and advocated continuation of the drafting work until the principles underlying the rights of indigenous peoples were fully understood. The draft declaration, however, should be submitted to the Commission without undue delay. Moreover, finalization of the drafting work should not signal the end of the Working Group, since a mechanism to consider the protection of the fundamental rights of indigenous peoples should be maintained within the United Nations.

31. The Grand Council of the Crees was, however, disappointed to note that little progress had been made of the study of treaties, agreements and other constructive arrangements between States and indigenous peoples (E/CN.4/Sub.2/1991/33). That undertaking, to which it had made a significant contribution, had been intended to support the standard-setting activity of the Sub-Commission and to contribute to the drafting of the Universal Declaration. The issue of treaties of such great historical and contemporary significance would therefore have to be addressed independently during the drafting of the Universal Declaration.

32. The application of international treaties and other international instruments, particularly implementation of the right to self-determination, should be another vital issue for the Commission. That right had, moreover, been reaffirmed during two recent experts' meetings, namely the Seminar on the Effects of Racism and Racial Discrimination on the Social and Economic Relations between Indigenous Peoples and States (E/CN.4/1989/22) and the Meeting of Experts to Review the Experience of Countries in the Operation of Schemes of Internal Self-Government for Indigenous Peoples (E/CN.4/1992/42).

33. Some States believed that the right to self-determination had purely internal repercussions. However, a law had recently been adopted by the Government of Quebec Province calling for a referendum on a declaration of full sovereignty, which underscored the need to consider the rights of indigenous peoples in the context of emerging new States. The United Nations should therefore ensure that indigenous peoples had the protection of international instruments and assure them that any racially motivated attempt to subjugate their rights would be condemned.

34. Finally, he asked the Commission to note that the Sub-Commission, in resolution 1991/30, welcomed the initiative taken by the Cree Regional Youth Council, which had decided to organize the First World Indigenous Youth Conference in Quebec in July 1992. He appealed to States and non-governmental organizations to lend technical and financial help to the Conference, which was in the context of the International Year for the World's Indigenous People.

35. Ms. GUZMAN (Latin American Federation of Associations of Relatives of Disappeared Detainees) stressed that, despite the criticisms which could be levelled against it, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had the great advantage of providing the Commission with numerous reports and studies concerning civil, political, economic, social and cultural rights. In that regard, an important stage had been reached in recommending to the experts, Mr. Guissé and Mr. Joinet, that a working paper should be drawn up regarding the impunity of human rights violators.

36. The Federation had already stressed the need to tackle the issue of impunity which, according to the Working Group on Enforced or Involuntary Disappearances, was one of the main causes of disappearance. Furthermore, many States resisted penalizing the perpetrators of such human rights violations; international vigilance and the creation of mechanisms and instruments which combated impunity were therefore absolutely indispensable.

37. The Committee of Families of Disappeared Detainees in Honduras wished to remind the Commission that, in July 1988, the Inter-American Court of Human Rights had sentenced the State of Honduras, for the enforced disappearance of two citizens, to pay compensation to the victims' families and to form a board of inquiry which would have the task of condemning - and thus preventing - human rights violations in the country. The Honduras Government, however, had merely strengthened impunity measures and, in July 1991, the National Congress had approved an unconditional amnesty decree for military personnel who had been found guilty of enforced disappearances, political assassinations, torture and illegal detention. That being the case, the State of Honduras was evading its obligation to punish all those responsible for enforced disappearances. In addition, in December 1991, the National Congress had approved the promotion of military personnel known to have taken part in enforced disappearances. The Committee of Families of Disappeared Detainees in Honduras therefore requested the Commission to call upon the Honduran authorities to undertake an efficient inquiry concerning the situation of 143 disappeared persons, and to communicate the results to the victims' families.

38. The report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities stated that the Working Group on Indigenous Peoples should continue the substantial progress already made towards the completion of a draft declaration on the rights of indigenous peoples. The National Assembly for Human Rights, held in Mexico, had declared that 1992 would be the Year of the Dignity and Rights of Indigenous Peoples and condemned the following facts: the constitutional reforms, particularly with respect to article 27, opened the way for large financial corporations to plunder what little arable land was owned by the peasants; despite the demagogic exaltation of indigenous culture, 17 million indigenous people lived in conditions of extreme poverty; the Huastec communities were victims of constant repression, 300 Tzeltales had been relocated against their wishes, the indigenous people of Soteapan (Veracruz) were victims of repression, and religious sects were rife in indigenous territories. The aim being to divide the communities living there. The Latin American Federation of Disappeared Detainees therefore appealed to the Mexican Government to end that policy, which was detrimental to the interests of the indigenous peoples.

39. Mr. WAREHAM (International Association against Torture), referring to the criticism levelled at the Sub-Commission on Prevention of Discrimination and Protection of Minorities, said that, regarding the work of the Sub-Commission, the Association did not favour the adoption of another agenda which maintained that the only real human rights were political and civil. The fight to prevent discrimination and protect minorities would, in that case, find itself divorced from the very conditions which had initially given rise to that very fight. Such restrictions on the work of the Sub-Commission would indeed cripple its ability to perform its mandate.

40. One Member State had recommended that the Sub-Commission should prepare detailed and realistic recommendations to the Commission on Human Rights on issues relating to minority conflicts, in particular conflicts which had led to violence. The International Association against Torture agreed with that recommendation, noting that Sub-Commission resolution 1991/2 (Measures to combat racism and racial discrimination and the role of the Sub-Commission) already addressed such concerns. The resolution recognized that, despite the efforts of the international community, "... racism and acts of violence ... persist and are even increasing in a number of countries in North America and Europe". The Association was pleased to see that the Sub-Commission condemned the serious manifestations of racism which were rife in the countries of North America - of which the United States was part - and indicated that, since the adoption of the resolution, the situation of the 40 million Africans resident in the United States had only worsened. The economic crisis very seriously affected the black and Latin American communities and was characterized by increased unemployment and a rapid deterioration of social services, such as hospitals, schools and housing. However, attacks by whites against blacks, Latinos, indigenous persons and Asians were common and overt, and such acts of popular racism were reflected and included in the official policy of the United States Government. The United States authorities had thus sanctioned the forced repatriation of Haitians who had fled their country after the military overthrow of the Government of President Aristide, arguing that they were economic and not political refugees. Moreover, the United States Government had abandoned the economic embargo out of professed concern that it was having too negative an effect on the poor people of Haiti. In that regard, it might be asked why the same argument had never been applied to the embargo imposed on Cuba. It should also be remembered that the United States Ministry of Health forbade Haitians to donate blood, suspecting that they were all potential carriers of the HIV virus, whereas scientific studies had shown that the risk of contamination was lower among Haitians than in the American population in general. That policy had only been modified in 1990 after massive demonstrations in the streets of New York. The repatriation of Haitians was all the more shocking given the wide-open-door stance of the United States authorities towards European citizens and refugees from socialist countries in general.

41. Hence, in the United States, as in Europe, a policy of pure and simple racism was involved. The Association therefore appealed to the Commission to adopt resolution 1991/2 of the Sub-Commission, and stressed in particular the recommendation to the General Assembly to take appropriate measures to launch a Third Decade to Combat Racism and Racial Discrimination. It should also approve the appointment of a special rapporteur of the Sub-Commission to update the study on racial discrimination prepared in 1976 (E/CN.4/Sub.2/370, Add. 1-6 and Add.6/Corr.1), in view of the new trends of racism, racial discrimination and xenophobia which had been noted for some time in various countries of the world.

42. Finally, the Association believed that, like the other bodies of the United Nations system, the Sub-Commission had merely adjusted to the changes in the world and that a few simple modifications would be sufficient to improve its operation.

43. Mr. IBARRA (International Indian Treaty Council) congratulated Mr. Joinet on the manner in which he had conducted the work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. With reference to the resolutions and decisions adopted by the Sub-Commission on issues related to indigenous peoples, he noted that resolution 1991/24 commissioned the Special Rapporteur, Mrs. Ksentini, to produce a study on human rights and the environment. In that regard, the International Indian Treaty Council welcomed the approach adopted by Mrs. Ksentini in her preliminary report on human rights and the environment (E/CN.4/Sub.2/1991/8).

44. The International Indian Treaty Council remained extremely concerned by issues related to land, man and the environment. The ancestral lands and sacred sites of the Indians continued to be invaded or coveted by industrial companies who wished to turn them into dumps for industrial, chemical and radioactive wastes. Gold-diggers continued to infiltrate Indian territories and to use mercury to wash the gold, thus contaminating the rivers and seriously threatening plant, animal and human life.

45. In Panama, whole communities had been expelled in order to construct a hydroelectric power station which now provided 40 per cent of the country's electricity. Such communities, however, still had no electricity supply and had received no compensation.

46. At a time when the whole world welcomed the new international setting from which the threat of nuclear conflict had been removed, the International Indian Treaty Council failed to understand why nuclear tests were continuing in the South Pacific. If such tests posed no threat to the environment and local populations, why not conduct them, at lower cost, in certain areas of Europe? The International Indian Treaty Council therefore requested that the Pacific should be declared a denuclearized and independent zone.

47. The Sub-Commission had adopted resolution 1991/31 on economic and social relations between indigenous peoples and States within the framework of the programme of the Second Decade to Combat Racism and Racial Discrimination. In that regard, it should be noted that the seminar held in 1991 at the invitation of the Governments of Denmark and Greenland, and in which the International Indian Treaty Council had been a participant, had shown, based on the experience of the independent Government of Greenland, that a firm political will would bring about harmonious solutions for the people. Relations between States and indigenous peoples were still conflictual and were most often characterized by a lack of respect and delaying tactics with regard to the latter and by a falsification of history and discrimination in general. In Guatemala, in particular, forced enlistment and the pillage of land continued.

48. The Sub-Commission had also adopted resolution 1991/32 on ownership and control of the cultural property of indigenous peoples and the International Indian Treaty Council hoped that the Commission would adopt a resolution aimed at protecting and restoring their cultural heritage. In addition, the Sub-Commission had adopted resolution 1991/33 on the International Year for the World's Indigenous People, the General Assembly having previously proclaimed 1993 as that International Year. Similarly, resolution 1988/35 of the Economic and Social Council urged all States to ensure that education and

information provided a fair interpretation of history without perpetuating or justifying theories of racial superiority or the subordination of indigenous or other peoples. The previous year, the Commission on Human Rights had adopted resolution 1991/57, stressing the participation of indigenous people in all the activities relative to the year in question. The International Indian Treaty Council simply regretted that such provisions had not been adopted for 1992.

49. The Sub-Commission had asked two of its members to prepare a document on possible United Nations activities for the International Year for the World's Indigenous People. In that document (E/CN.4/Sub.2/1991/39), Ms. Mbonu and Mr. Eide had made interesting proposals which were endorsed by the International Indian Treaty Council. Recently, the General Assembly had adopted resolution 46/128, which reproduced the basic ideas in the said resolutions. The International Indian Treaty Council requested the Commission to adopt a resolution aimed at promoting the direct participation of indigenous peoples in all activities undertaken on the occasion of the International Year, the organization of seminars and conferences in the areas inhabited by indigenous peoples, the dissemination of information concerning the activities of the Working Group on Indigenous Peoples and the organization of workshops on the land and territories of indigenous peoples to examine the draft Universal Declaration on the Rights of Indigenous Peoples. It also requested that it should set 12 October 1992 as the beginning of the International Year for the World's Indigenous People, commission the specialized institutions of the United Nations to undertake special programmes concerning indigenous projects, request Governments to ratify Convention No. 169 of the International Labour Organisation on Indigenous Peoples and Tribes in Independent Countries and other international instruments guaranteeing their rights, provide the coordinator of the International Year with the economic, human and technical resources needed for him to fulfil his mandate and invite Governments, non-governmental organizations and other interested parties to make contributions to the special fund created for the Year.

50. The Sub-Commission had adopted decision 1991/111 on the study on treaties, agreements and other constructive arrangements between States and indigenous populations, which was of particular significance for various peoples. Referring to the statement by the United States representative regarding item 17 of the agenda, he noted that the United States had signed 371 treaties which it had never respected, that being a violation of the provisions of article VI of the United States Constitution. For example, on 14 January 1992, the Supreme Court had delivered a judgement authorizing Yakima County to levy taxes on the land of the Yakima nation, thereby creating a precedent which threatened the survival and sovereignty of the Yakima nation, and, by the same token, those of all other Indian reservations. Other States could well do the same and expropriate the land of Indians who could not pay their taxes. In addition, the United States Government had failed to respect the five treaties signed in 1921 between the United States and the indigenous peoples of Hawaii, to whom the exclusive use of 200,000 acres of land should have been reserved pursuant to the said treaties; 70 years on, it had to be stated that only 17.5 per cent of the land was used by the indigenous people, whereas 62 per cent was occupied by non-indigenous people, who paid very little tax. The International Indian Treaty Council therefore

approved the criteria established by Mr. Alfonso Martínez in his preliminary report (E/CN.4/Sub.2/1991/33) and was ready to cooperate with him. It invited the relevant authorities to make available to the Rapporteur all the necessary means to enable him to complete the task assigned to him.

WORLD CONFERENCE ON HUMAN RIGHTS (agenda item 24) (continued) (E/CN.4/1992/57)

51. Mr. MEZZALAMA (Italy) announced on behalf of the Italian Government that Italy was prepared to host the World Conference on Human Rights in 1993, and said that the importance of such a conference merited the considerable effort entailed in its organization. Italy's official offer would shortly be forwarded to the Secretariat.

52. Mr. SANTA CLARA (Portugal), speaking on behalf of the member countries of the European Community, noted that the respect and promotion of human rights were at the core of international relations and constituted one of the main purposes of the United Nations. The World Conference on Human Rights would also be one of the major events in coming years and would be found on the agenda of the bodies and organizations concerned with human rights. The international environment was conducive to the convening of the Conference: international political life had taken a new turn, and relations between States increasingly highlighted common values such as democracy, pluralism, respect for human rights and the importance of the individual in society. Committed to such values, the countries of the Community had always supported the idea of organizing a world conference on human rights and had pledged to make an active contribution at all stages of its preparation. Italy's proposal provided evidence of the interest accorded by the Community to the Conference, which would provide the opportunity for a review of what had been achieved to date and what remained to be done to ensure that human rights continued to be universally respected.

53. Concerning the preparatory work, and more specifically the second session of the Preparatory Committee, the States members of the Community were convinced that the positive and constructive spirit which had so far prevailed would produce tangible results, particularly regarding the provisional agenda for the Conference. Like many delegations, the Twelve believed that the agenda should follow as closely as possible the lines set out in General Assembly resolution 45/155 and Commission on Human Rights resolution 1991/130, and should promote a constructive dialogue on the basis of the objectives contained therein. For the States members of the Community, the main aims would be full adherence to the international norms concerning human rights and reinforcement of the mechanisms controlling their universal implementation.

54. The Twelve would accord particular attention to education and training in the human rights field and to the resources devoted to human rights programmes. They would also attach considerable importance to the indivisibility of all categories of human rights and their interdependence, which entailed guaranteeing respect for human dignity and responding to the legitimate aspirations of every individual. They believed that the Conference should strive to enhance general awareness of human rights and fundamental freedoms among the public at large, particularly by encouraging the creation or strengthening of national or regional institutions for the promotion and

protection of human rights. It should also promote an in-depth discussion of the place of human rights in the coming decades and its relationship with other subjects of concern, such as the promotion of democracy, the rule of law and development.

55. To ensure the success of the Conference, all States, regional structures and non-governmental organizations should, inter alia, participate actively in the preparatory work and in the Conference itself. The Twelve were eagerly awaiting the outcome of the regional meetings, and again stressed the importance of the involvement in the preparatory process of the chairmen of the Commission on Human Rights, other human rights bodies (notably treaty bodies) and working groups, as well as special rapporteurs. Moreover, the States members of the Community believed that Governments should be represented in the Conference at the highest level.

56. Regarding the financing of the Conference, she said that the Twelve welcomed the financial arrangements adopted by the General Assembly, particularly the establishment of a voluntary fund to meet the costs of participation of representatives of the least developed countries in the preparatory meetings and in the Conference itself. The States members of the Community believed that the Conference participants should reaffirm their unconditional commitment to the universal implementation of the norms adopted by the United Nations.

57. Mr. BOITCHENKO (Russian Federation) stated that the preparatory work for the World Conference on Human Rights was on the right course. Judging by the number of sponsors of the draft resolutions submitted on the subject to recent sessions of the Commission on Human Rights and the General Assembly, there was broad consensus regarding the basic objective of the Conference. The first session of the Preparatory Committee held in September 1991 had been fruitful, and the Secretariat was participating actively in the preparations for the Conference. Preparatory meetings had been scheduled in Asia, Africa and Latin America, showing the keen interest accorded to the event by the international community.

58. He believed that no time should be lost in waiting for the second session of the Preparatory Committee in order to agree on the agenda of the Conference and the main themes to be discussed. There was no advantage to meeting in Geneva in order to begin examining such questions. The Russian Federation suggested recourse to the diplomatic channel, the creation of national centres whose task would be to make arrangements for the Conference and the continued convening of regional meetings. As a Eurasian country, the Russian Federation looked forward to learning the results of the work of the preparatory meetings of the States of Asia and the Pacific, where there was no organization for the protection of human rights.

59. The Conference should focus on the three basic themes of human rights, democracy and development, and should tackle issues of common interest such as the indivisibility and interdependence of human rights, the universality of international norms, the rights of indigenous peoples, the principles of social justice, poverty and the means of improving existing control mechanisms. Issues which provoked too much controversy, such as the human rights situation in different countries, should be excluded from the agenda.

The Russian Federation hoped that the Conference would have results which were liable to have tangible application. It therefore accorded particular attention to the preparation of analytical and factual studies and documentation which was succinct and precise. In addition, it would be useful to formulate questionnaires or guidelines, for example, on the structure and acquired experience of the various national organizations concerned with human rights, on the obstacles to implementing international norms at the national level, on the technical and advisory services which the United Nations could provide to strengthen national democratic institutions, and on the organization of national information campaigns on human rights.

60. The Russian Federation would like to see the initiation of a creative and open dialogue in accordance with the recommendations of the forty-seventh session of the Commission on Human Rights and the first session of the Preparatory Committee and pursuant to General Assembly resolution 46/116. It did not wish to participate in a routine political meeting or in something resembling an ordinary session of the Third Committee.

61. Preparing for the Conference was a mammoth task which the Secretariat would have difficulty in performing well if the necessary financial resources and staff were not available. Economies could not be made in the human rights field, the less so since many programmes were inefficient or outdated, and since international cooperation would increasingly focus on humanitarian problems.

62. Mr. FAN Guoxiang (China) said he was pleased to note the satisfactory progress of the preparatory work for the Conference. At its most recent session, the General Assembly had adopted resolution 46/116, which made clear provision for the different stages of the preparatory process, particularly the financial arrangements and the holding of regional preparatory meetings. China endorsed the convening of the World Conference on Human Rights in 1993. It believed that it was necessary to make a realistic and concrete assessment of the activities and progress achieved in the field of human rights and to consider means of promoting respect for such rights and freedoms.

63. He noted that the idea of protecting human rights and fundamental freedoms at the international level had originated from the Second World War. Since its inception, the United Nations had been making unremitting efforts to promote such rights and freedoms. It had formulated a large number of international norms and had installed mechanisms controlling their implementation. It had contributed actively to the struggle against the massive and flagrant violations of human rights resulting from racism, apartheid, colonialism and foreign aggression and occupation, as well as to safeguarding the right of the peoples of small countries to self-determination, supporting the struggle for independence of peoples under colonial domination, safeguarding the sovereignty of the newly independent countries over their economic resources, affirming the right to development as an inalienable human right, protecting the fundamental rights and interests of women, children, the disabled, refugees and migrant workers, and advancing social development and the universal achievement of fundamental freedoms. Nevertheless, there were still many obstacles to the full realization of human rights and fundamental freedoms. Hence, the vestiges of the "cold war" had not all disappeared, while the political and ideological factors which

undermined endeavours in the human rights field were increasing. The concept of human rights remained fragmented and some categories were emphasized more than others. Certain countries did not hesitate to invoke human rights to defend their political interests, whereas others used them to justify their interference in the internal affairs of other States, all of which ran counter to the principles of the Charter of the United Nations and also obstructed cooperation in the field of human rights.

64. The modern world was made up of a multitude of traditions, cultures, religious beliefs and ideologies. The Chinese delegation therefore believed that measures aimed at protecting human rights should be decided by each individual country, in the light of its history, tradition and level of economic development. Human rights would only be truly promoted and safeguarded if, in defining a common approach to the subject, the differences between countries and the need to respect them were recognized. The Chinese delegation believed that the World Conference should address that aspect of the question.

65. It would also be opportune on that occasion to broach the issue of the relationship between development and human rights. In that regard, China believed that the very essence of the concept of human rights lay in the right to survive and flourish in the natural environment and in human society. The path to follow towards achieving human rights in a country therefore encompassed social progress, social stability and economic development. Experience and history proved, in fact, that in most developing countries, including China, the most pressing matter was to resolve problems of food, housing, employment, education and health care. As pointed out by the leaders of some developing countries, a hungry man was not a free man. Consequently, human rights and fundamental freedoms could only be guaranteed in the context of substantial growth of the national economy and improvements in the livelihood of the population.

66. In conclusion, the Chinese delegation commented that the regional preparatory meeting for Asia was, as its name indicated, intended for the Asian States. It was not opposed to the participation of non-governmental organizations, provided that they were based in Asia and played only an advisory role, in accordance with the relevant provisions established by the United Nations.

67. Mr. ITO (Japan) said he first wished to thank Italy for proposing to host the World Conference on Human Rights, which was intended to promote a better awareness of human rights and democracy in a world where a new order was being built.

68. His delegation believed that the provisional agenda of the World Conference should be based on the six objectives articulated in General Assembly resolution 45/155. The Conference should also be pragmatic, focusing essentially on the implementation of existing standards in order to avoid lengthy ideological debates. With regard to the regional preparatory meetings, his delegation believed that the cultural differences and experiences of the different countries in a particular region should be taken into account in order to allow a debate on human rights questions on the basis

of broadly acceptable concepts. On the other hand, care should be taken not to place too much emphasis on regional differences, which might obstruct the promotion of the universal protection of human rights.

69. One of the subjects to be dealt with by the World Conference on Human Rights was the relationship between development, human rights and democracy. Although his delegation understood the value of social and economic development, it believed that certain rights and fundamental freedoms should be respected by all States, regardless of their economic, political or cultural characteristics. Japan, in the light of its experience after the Second World War, believed that the establishment of a democratic system gave free rein to individual creativity and, as a result, to economic growth and prosperity.

70. The United Nations and its Member States should make their official development assistance dependent on the beneficiary country's commitment to democracy and human rights. In that connection, the Japanese Government had announced in 1991 that it would increase its official development assistance bearing in mind the following considerations: trends in military expenditure, democratization efforts, introduction of a market economy, and situation regarding basic human rights and freedoms in the beneficiary country. That statement was in accord with the principle that development assistance should contribute to the implementation and promotion of the individual's rights.

71. Mr. CHOWDHARY (India) expressed the view that the agenda of the meetings of the Preparatory Committee should be within the parameters of the relevant General Assembly and Commission on Human Rights resolutions. Regarding the studies and documentation for the World Conference, the Indian delegation believed that the relationship between development and democracy should be a basic subject for consideration by the Conference, requiring more in-depth study. It suggested, on the other hand, that terrorism, which could constitute a major obstacle to the exercise of human rights, should be the focus of a specific study. Finally, it believed that the agenda of the World Conference on Human Rights should be the subject of consultations at an early stage of the preparatory process. The World Conference should adopt a global approach to human rights questions which would allow all countries to move closer to the ideals enshrined in the Universal Declaration of Human Rights.

72. Mr. PIRIZ BALLON (Uruguay) said he believed, in the present historical context, that it was necessary to assess the progress made concerning the protection and exercise of human rights and to define future action aimed at intensifying and expanding the endeavours of the international community in order to ensure the most efficient possible implementation of such rights.

73. That task should be undertaken with respect for the religious and cultural characteristics of nations. However, it was intolerable that political obstacles, imposed by totalitarian Governments, should stand in the way of the definition of thresholds by means of international instruments: civil, political, economic, social and cultural rights could not be violated under any pretext.

74. The irrevocable nature of the instruments governing the protection and exercise of human rights was now clearly established. Consequently, the question which arose concerned the creation or strengthening of the jurisdictional bodies intended to ensure the effective application of such rights. That was where the World Conference would play its role. There were, however, still other reasons which justified convening the Conference. Serious consideration had to be given to the meaning of the right to life in view of the threat posed by the deterioration of the environment. In that case too, the classic concept of sovereignty should give way to interdependence, which was an indispensable concept if problems were to be resolved at the regional and world levels.

75. It was, moreover, time to consider the problem of development. It was clear that without economic and social development, the exercise of human rights would be compromised. It was on the basis of the conclusions to be reached by the World Conference in that regard that the action to be taken in the human rights field concerned could subsequently be decided.

76. As for setting the agenda and organizing the World Conference, the Uruguayan delegation believed it was imperative that the Conference should have a truly universal character representing the cultural heritages of all peoples. Uruguay moreover believed it was essential for the success and credibility of its results that all countries should participate on an equal footing: developed and developing countries should share the responsibilities and should all be involved in that great undertaking.

77. Finally, Uruguay thanked Italy for offering to host the Conference.

The meeting rose at 5.50 p.m.